

# The University Senate of Michigan Technological University

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## PROPOSAL 13-95

### FACULTY GRIEVANCE POLICY AND PROCEDURES

#### Faculty Grievance Procedures

It is the policy of Michigan Technological University to have an effective procedure for reviewing and resolving faculty grievances. That procedure is described here.

#### Grievable Issues

A grievance is a complaint alleging a misinterpretation, incorrect application, or violation of a policy, procedure, or practice of the University, not pursuable by the faculty member in some other forum. Some examples of "grievable issues" are the following: the application of policy, salary levels or salary adjustments, teaching loads or workload, reprisals, academic freedom, facilities or space, and sanctions. The following issues are non-grievable under this procedure:

1. determination of policy, which is the domain of the governance system;
2. promotion and tenure actions, which have their own appeal procedure;
3. items falling within the jurisdiction of other University appeal procedures, such as discriminatory actions, scientific misconduct, and Equal Employment Opportunity complaints.

#### Collegial Communications

Most faculty concerns or complaints can be resolved informally through normal collegial communications. Accordingly, faculty members are encouraged to take their complaints to their relevant supervisor in the normal spirit of faculty problem solving. If this does not lead to a mutually satisfactory outcome, the faculty member may pursue the issue through the procedural steps below.

Department or division heads or chairs, deans or directors, and other administrative faculty shall assist the faculty member in the processing of the grievance.

#### Grievance Committees

1. Each department shall formulate a grievance process in its charter. It shall include a means for filing grievances with the Department Chair or School Dean, a committee of peers to review grievances, and appropriate forms to keep a written record. The charter's process shall be consistent with the provisions for timeliness as set forth below.

2. The University Senate shall establish a standing, university-wide Faculty Review Committee to be composed of the following persons:

a. Chair: The University Ombudsperson.

b. Two members, not from the same department, elected in the order of their plurality of the votes of the faculty at large. The election is to be run by the Senate. For the first election, the highest vote-getter shall have a term of three years and the next highest shall have a two-year term. As those terms expire, members shall be elected to three-year terms.

The Faculty Review Committee shall be responsible for writing and maintaining appropriate forms and procedures for Steps Two through Five, as well as conducting duties specified in Step Three (below). The Faculty Review Committee shall submit to the Senate an annual report of the year's activities at the end of each academic year. The report should include a summary of the number of grievances filed, resolved, appealed, etc., from the department level through the Appeal Panel.

3. A human resources staff member will be appointed to serve as a resource person on each grievance committee. This person will initially provide training services to the committee and will be on call for future deliberations at the request of the committee chair.

4. If the grievance is not resolved by Step Five (below), the Executive Vice President and Provost shall establish an Appeal Panel on a case by case basis. An Appeal Panel shall consist of three persons. The aggrieved faculty member and the original supervisor shall each select one faculty member from the University. These two persons shall choose a third University faculty member, who shall then serve the three-member panel as its chair. None of these faculty panel members shall currently be serving as an administrator; none shall have had any prior involvement in the grievance.

## **The Grievance Procedure**

**Step One:** If the grievance cannot be reconciled by collegial discussions with the relevant supervisor, the grievant shall file a grievance in writing with the Department Chair or School Dean. The grievance shall be filed within thirty (30) work days after discovery of the event, action, or omission that is the basis for the grievance, or thirty (30) work days after the date on which the grievant reasonably should have known of such an event, act, or omission, if that date is later. (In cases where a basis for the grievance is an alleged historical pattern of inequity, the thirty work days shall commence after an identifiable action, event, or omission related to that pattern, or the date on which the grievant reasonably should have known of such an event, act, or omission, if that date is later.) No grievance need be accepted for processing under this procedure unless a written grievance is provided to the Department Chair or School Dean within this thirty (30) day period.

The Department Chair or School Dean will pass the written materials on to the departmental grievance committee for action. Within a time period of thirty (30) work days, that committee must notify in writing the grievant, the relevant supervisor, and the Department Chair or School Dean of its decision.

**Step Two:** If the department committee agrees with the supervisor, the grievant has the right to request an appeal. This request for appeal must be submitted directly to the Chair of the Faculty Review Committee in writing within five (5) work days after receipt of written notification of the department committee decision. The appeal petition will set forth in detail the nature of the grievance, state against whom the grievance is directed, and include any factual data which the petitioner deems pertinent to the case. The chair of the Faculty Review Committee shall immediately notify the supervisor and the chair of the department grievance committee of the receipt of a request for appeal.

If the department committee disagrees with the supervisor, the committee chair shall notify the supervisor in writing of the committee's decision, and shall refer the grievance to the University Faculty Review Committee. This will be done within five (5) work days after the department committee makes its decision.

Adequate time shall be allowed for the faculty member to file an appeal with the University Faculty Review Committee under circumstances where the faculty member's ability to file has been delayed by lateness or failure to supply documentation on the part of the supervisor, Department Chair or School Dean, or department committee. Discretion in this regard shall be exercised by the University Faculty Review Committee.

**Step Three:** The Faculty Review Committee shall decide on all grievances submitted to it within thirty (30) work days from receipt from the departmental level in Step Two. The grievant, the grievant's relevant

supervisor, the Department Chair or School Dean, and the next higher level administrator shall be notified of the Committee's decision in writing.

It is the duty of this committee to decide if the grievance shall be passed on to the higher administration level of Step Four, or shall be stopped at this point. All such decisions are final. The Faculty Review Committee shall ask the relevant supervisor and the committee of peers to come forward with evidence to support their decisions within the time limits set for this review.

The Faculty Review Committee shall be responsible for making its decision in light of five questions:

(1) Does the grievance fall into the list of grievable issues in section A.1 above?

(2) Does the grieved issue have a substantial impact on the faculty member? The impact shall be on the individual faculty member, not simply on general policy or educational philosophy. It shall be up to the Faculty Review Committee to decide what is a "substantial impact," but the Committee should consider how important the grieved issue is to the long-term roles of a faculty member in teaching, research, and service, and to the rights and responsibilities embodied in academic freedom. Salary increments shall be considered to be an issue of substantial impact if there is alleged to be a record of cumulative (historical) inequities.

(3) Does the evidence presented to the Committee support the existence of a grievable cause of substantial impact?

(4) Was the grievance handled according to the processes set up by the departmental charter and/or this grievance procedure?

(5) Is there new evidence not reasonably available at prior steps?

An appeal should be passed on to Step Four if

a. the issue is grievable, it has substantial impact, and there is supporting evidence; or,

b. the issue is grievable, there is supporting evidence, and the handling of the grievance deviated in a non-trivial manner from proper procedure.

The Faculty Review Committee may consider paths of conciliation and mediation, including ones utilizing its chair, the Ombudsperson, when all parties are willing to undertake mediation or when the Committee decides that the criteria for continuing a formal appeal have not been met.

Step Four. The Step Four administrator shall be the next direct level of University administration, normally College Dean but in some cases the Executive Vice President and Provost, depending on the reporting structure in a given unit. If the latter structure is the case, the procedure passes to Step Five below.

Following receipt of written notification, the Step Four administrator or acting administrator shall meet with the faculty member within five (5) work days. The Step Four administrator may request the relevant supervisor to be present; the faculty member may similarly request that a representative of his or her choice be present. The Step Four administrator shall give the faculty member a written response within five (5) work days after the meeting. The Step Four administrator may reach a written, mutually agreed resolution with the grievant, in which case the grievance process is closed.

Step Five. If the fourth step written response is not accepted by the faculty member, the faculty member shall send written notification to the Step Four administrator within five (5) work days indicating the desire to advance the grievance; the Step Four administrator will forward immediately one copy of the grievance to the Step Five administrator, the Executive Vice President and Provost. The Executive Vice

President and Provost, or an appropriate designee, shall contact the faculty member within seven (7) work days to acknowledge receipt of the Step Five grievance.

The Executive Vice President and Provost may reach a written, mutually agreed resolution with the grievant. If no written agreement is reached within five (5) work days after acknowledgment of receipt, the Executive Vice President and Provost shall form an Appeal Panel within ten (10) work days after acknowledgment of receipt.

The Appeal Panel will review the grievance, will interview the principals, and may conduct other such investigations or hearings as appropriate. Every reasonable effort will be made to assure that the Appeal Panel hearing will be held within thirty (30) work days of the receipt of the request by the Executive Vice President and Provost. The panel shall submit its decision in writing to the President and the grievant within thirty (30) after the close of the hearing.

Panel Findings: The Appeal Panel will make a recommendation to the President on its findings and the President's decision will be final. When the President reaches a decision, he/she shall notify the Appeal Panel and the University Faculty Review Committee in writing of the decision.

### **Other Concerns and Definitions**

1. In cases where off-campus faculty are involved in a grievance and telephone or e-mail resolution is unsuccessful, travel to Houghton or to other non-work locations may be required in the resolution of the grievance. The faculty member whose grievance continues past Step Three shall have all related costs of travel paid by the University.

2. All costs of legal counsel employed by the grievant shall be borne by the grievant.

3. "Work days" as used in this procedure include the days Monday through Friday only, and only when those days are not University holidays.

4. Time limits are subject to extension by written agreement of both parties; the grievant and the administrator or committee chair involved at that particular step of the discussion shall be makers of such agreement.

5. Failure of a supervisor, administrator, or committee to respond to a grievance in a timely fashion shall qualify the grievance to be advanced to the next step. The faculty member shall bear the responsibility for filing at the next level. In addition, the appeal panel may consider non-trivial failures by supervisors, administrators, or committees to conform to procedures in formulating the appeal panel's final decision.

6. Failure of the faculty member to meet filing deadlines may be cause for refusal by the administration to consider any grievance.

7. Upon resolution of a faculty grievance, the written record will not be disseminated to third parties, except to the extent that such dissemination may be required by law.

8. In all instances the count of days in this document shall begin the work day after the indicated event or action.

**Adopted by Senate: April 5, 1995**

**Approved by President (with modifications): November 1, 1995**

**Adopted by Senate (with clarification): March 6, 1996**

**Approved by President: March 1996**

**Amended with Proposal 23-00**